IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

In re: Craig's Used Cars, LLC, Debtor.	Case No.: 3:16-03994-TLW
Robert F. Anderson, Chapter 7 Trustee, Plaintiff, v. American Credit Acceptance, LLC, Spartan Financial Services, Inc., and Janet B. Haigler, Chapter 7 Trustee for Dozier Financial, Inc., Defendants	COMPLAINT (Jury Trial Requested)

Robert F. Anderson, Chapter 7 Trustee (the "Trustee") for the bankruptcy estate of Craig's Used Cars, LLC, ("Craig's Used Cars" or "Debtor"), by and through his undersigned counsel, complaining of the acts of American Credit Acceptance, LLC ("ACA"), Spartan Financial Services, Inc., ("Spartan"), and Dozier Financial, Inc. (hereinafter "Dozier") would show the following:

JURISDICTION AND VENUE

1. The Plaintiff brings this adversary proceeding pursuant to 11 U.S.C. §§ 101-1330 of the Bankruptcy Code and Rule 7001 of the Federal Rules of Bankruptcy Procedure.

2. This matter is a core proceeding within the jurisdiction of this Court pursuant to 28 U.S.C § 157(b)(2)(H) and (K) and Bankruptcy Rule 7001(1) and (2) as it is an action to recover money or property for the estate through the setting aside of a preferential transfer as

provided for under 11 U.S.C. §547; fraudulent conveyances under 11 U.S.C. §§ 544 and 548; assertion of Debtor's rights for recovery under applicable Federal and State Statutes under 11 U.S.C. § 541; and collection of money damages against Defendants under 11 U.S.C. §550.

3. This matter also raises South Carolina state law claims which are property of this Bankruptcy Estate. This Court has jurisdiction over the state law claims pursuant to 28 U.S. Code § 1367.

4. This proceeding arises under Title 11 and arises in a bankruptcy case that is pending in the District of South Carolina, and, therefore, venue is proper in this Court and division pursuant to 28 U.S.C. §§ 1408 and 1409.

PARTIES

5. Plaintiff is the duly appointed Chapter 7 Trustee of the Debtor's bankruptcy estate and asserts all rights on behalf of the Debtor's bankruptcy estate.

6. The Defendant, ACA, is a limited liability company organized under the laws of South Carolina with its address for service of process at 340 East Main Street, Suite 500, Spartanburg, South Carolina 29302. ACA is a private lending company that specializes in providing short term commercial financing to "buy here pay here" automobile dealers. ACA is the parent company of the Defendant Spartan, and all references to ACA in this Complaint include both ACA and Spartan.

7. The Defendant, Spartan, is a corporation organized under the laws of South Carolina with an address for service of process at 959 John B. White, Sr. Boulevard, Spartanburg, SC 29309. Spartan provides capital for "buy here pay here" automobile dealers.

8. The Defendant, Janet B. Haigler, is the duly appointed Chapter 7 Trustee of the bankruptcy estate of Dozier, with an address for service of process of Post Office Box 505, Chapin, South Carolina 29036. Plaintiff is not seeking monetary damages from Janet B. Haigler as Trustee of the bankruptcy estate of Dozier. Plaintiff reserves the right to assert a claim against the Dozier bankruptcy estate for any and all amounts for which Dozier may be liable based on the claims set forth herein.

FACTUAL ALLEGATIONS

9. On August 5, 2014 (the "Petition Date"), an involuntary Chapter 7 petition was filed against the Debtor by Dealer Financial, Inc. ("DFI").

10. Dozier Financial, Inc. (hereinafter "Dozier") is a corporation organized under the laws of South Carolina, and was a sister corporation of the Debtor. Dozier was a corporation that bought and sold motor vehicle financing contracts/chattel paper/installment loans. Dozier is also a Debtor in separate Chapter 7 proceedings before this Court.

11. On September 8, 2014, this Court entered an Order adjudicating the Debtor a debtor under Chapter 7 of the Bankruptcy Code.

12. The Trustee was appointed as the Chapter 7 Trustee of the bankruptcy estate of the Debtor on September 8, 2014.

I. The Debtor and Its Business

13. Debtor is South Carolina limited liability company, solely owned by Michael A. Dozier (hereinafter "Michael Dozier"). Debtor maintained a principal place of business at 1011 South Cashua Drive, Florence, South Carolina.

14. Michael Dozier controlled and managed the business of Debtor and of Dozier since their inception.

15. Between 2009 and the Petition Date, Michael Dozier was the President of Debtor.

16. Debtor was engaged in the business of selling used motor vehicles to the public referred to as a "buy here pay here" dealership.

17. As a "buy here pay here" dealership, Debtor would purchase vehicles, usually from an auto auction facility.

18. Debtor would obtain funds to purchase the vehicles using floor plan lending with various lenders (hereinafter "Floor Plan Lenders") including DFI.

19. The Floor Plan Lenders would receive a security interest in the vehicles with the funds they advanced Debtor for the purchase of the vehicles.

20. Once Debtor had possession of the vehicles, Debtor would then offer the vehicles for sale to the general public, at a marked up price, and sell the vehicles. Almost all sales required the purchaser to put down a small cash payment (normally 10%) and the rest of the sales price financed by Debtor.

21. As part of this transaction, Debtor would receive a promissory note and security interest in the vehicle (the "Chattel Paper"). An example of the note and security interest in a car is attached as Exhibit 1.

22. When the monthly payment became due, the consumer was to either return to the Debtor's place of business to make a payment or mail the payment to Debtor.

23. When consumers did not pay, Debtor began collections efforts.

24. Each week as vehicles are sold, Debtor is left with a receivable (i.e. Chattel Paper) which represents a possible income stream over time in the future if the consumers make appropriate payments.

25. The Chattel Paper, while a valuable asset, did not allow Debtor to satisfy its debts to Floor Plan Lenders, which was necessary to obtain possession of title certificates for the financed cars, perform appropriate consumer title work, and free up room under the floor plan lending lines (thus enabling Debtor to purchase additional cars).

26. Debtor needed to see the Chattel Paper to a third party finance company, at a slight discount, to generate the cash necessary to operate Debtor's business.

II. Dozier Financial

27. In June 2009, Michael Dozier created Dozier.[1]

28. Dozier was created for many reasons, but one primary reason was to purchase the Chattel Paper generated by Debtor.

29. By purchasing the Chattel Paper generated by Debtor, Dozier would create an immediate cash return for Debtor on the Chattel Paper, which only represented a possible income stream over time in the future if the consumers make appropriate payments.

30. Accordingly, when a car was sold to the individual consumer, on "buy here pay here" terms, the Debtor would receive a small upfront cash payment and Chattel Paper.

31. Rather than hold the Chattel Paper and wait on the possible income stream over time in the future if the consumers made appropriate payments, Debtor sold the Chattel Paper to Dozier, without recourse, at a small discount off of its face value.

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[1] Dozier was originally an LLC but was later converted to an S-Corporation.

32. The Debtor would then to use the proceeds received from Dozier to pay the Floor Plan Lender and retain the balance for operational expenses and profit.

III. Loan Agreements Between ACA and Dozier Financial

33. Dozier (wholly owned by Michael Dozier) needed funds to purchase Chattel Paper from Debtor (also wholly owned by Michael Dozier).

34. As such, Dozier began to search for investors or other funding sources for its business.

35. ACA is a company that specializes in providing financing relating to buy here pay here businesses.

36. ACA specializes in providing capital solutions for buy here pay here dealers and independent auto finance companies.

37. ACA's goal is to understand each client's capital needs and provide a customized solution to match the client's objective.

38. ACA targets buy here pay here dealers, indirect auto finance lenders, financial institutions and credit unions.

39. Debtor met representatives from ACA at a conference in Las Vegas, Nevada where ACA was exhibiting and searching for buy here pay here businesses to do work with.

40. After meeting at the conference and prior to entering into agreements with Dozier, ACA performed a complete analysis of Dozier's business wherein it reviewed all aspects of its operations.

41. The review was conducted as part of ACA's due diligence of Dozier to evaluate its business model and assist ACA in determining under what terms it would advance funds to Dozier to ensure a profitable return on money advanced to Dozier.

42. On November 10, 2010, ACA and Dozier entered into a Loan and Security Agreement for ACA to loan Dozier money thereby providing moneys to purchase Chattel Paper from Debtor.

43. The collateral pledged for this agreement were "All current and future motor vehicles owned by Dozier Financial".

44. The problem with this 2010 Agreement, and multiple subsequent amendments to this 2010 Agreement running through 2013, is that Dozier did not own any motor vehicles and has never owned any motor vehicles. ACA knew that Dozier did not own any motor vehicles and has never owned any motor vehicles. Accordingly, the debt owed to ACA by Dozier was not secured by any motor vehicles.

45. Dozier was to provide ACA with a list of Chattel Paper it was purchasing from Debtor, and ACA had a right to not advance funds for the purchase of any individual piece of chattel paper.

46. Therefore, ACA always knew how much Chattel Paper Debtor was generating through sales and how much Chattel Paper Debtor was selling to Dozier. ACA also knew whether Dozier had sufficient funds to pay Debtor for the Chattel Paper.

47. ACA would then advance funds to Dozier, which Dozier used in part to purchase the Chattel Paper from Debtor.

48. From 2010 to 2013, the debt from Dozier to ACA (pursuant to the arrangement set forth above) grew to approximately $10,000,000.

III. The April 19, 2013 Loan Agreement

49. On April 19, 2013, ACA and Dozier entered into an Amended and Restated Funding Agreement (the "April 19, 2013 Loan Agreement").

50. In the April 19, 2013 Loan Agreement, ACA required that the funds it was advancing to Dozier be personally guaranteed by Michael Dozier and several other auto dealerships owned and/or controlled by Michael Dozier, including the Debtor (collectively the "Guarantors").

51. This guaranty by Debtor was made without any consideration.

52. In the April 19, 2013 Loan Agreement, ACA demanded that Michael Dozier (and entities he controlled) pledge as additional collateral five (5) pieces of real property (defined as the "Backup Collateral") and, among other items, the Debtor's Chattel Paper in the possession of Dozier, which constituted most of the Chattel Paper in the possession of Dozier.

53. ACA made these additional demands because it became concerned that Dozier could not repay its debt to ACA.

54. In addition to the demands that Guarantors guarantee the loan and that Backup Collateral be pledged to secure the loan, ACA insisted that April 19, 2013 Loan Agreement include provisions in it that related to Dozier's ability to receive additional advances based upon the Chattel Paper being pledged, recourse obligations in the event that payments were not made pursuant to the Chattel Paper, fees to be charged on the outstanding advances, and interest to be charged on the outstanding balance of the funds advanced to Dozier.

55. Based upon the April 19, 2013 Loan Agreement, in December 2013, the balance due from Dozier to ACA exceeded $10,000,000. The value of Chattel Paper at that time was significantly less than the amount owed to ACA.

56. After the April 19, 2013 Loan Agreement was executed, Dozier and Debtor (and other buy here pay here entities controlled by Mike Dozier) continued to deteriorate financially.

57. The deterioration was caused in part by ACA's actions, specifically, its requirement that the Debtor buy more expensive cars.

IV. ACA Stops Fully Funding Dozier's Funding Requests

58. Historically, ACA had fully funded Dozier's request for funding pursuant to the Loan Agreements. This meant that Dozier had no need to look for alternative funding, which would have been difficult if not impossible for Dozier to find based upon its financial condition and ACA's contractual right of first refusal.

59. Upon information and belief, in October of 2013, ACA stopped fully funding Dozier's requests for advances on Chattel Paper. Thereafter, if Dozier requested funding for 10 pieces of Chattel Paper (so that Dozier could pay Debtor for the Chattel Paper), ACA would only fund selected pieces of Chattel Paper. This left Dozier in a position where it needed alternative funding for the Chattel Paper ACA would not fund. This also meant that Dozier held Chattel Paper that it did not have money to purchase.

V. ACA Insists that Funds Be "Diverted"

60. ACA began to insist that some of the funding money it was advancing pursuant to the Loan Agreements (money that ACA knew Dozier needed to pay Debtor for the Chattel Paper) be "diverted" for ACA's benefit and for reasons other than allowing Dozier to pay Debtor

for Chattel Paper that Dozier was purchasing from Debtor. ACA also insisted that some of the funds it was advancing Dozier be deposited into a restricted account that Dozier could not access or use to pay for the Chattel Paper it was purchasing from Debtor. ACA required these funds be used to satisfy other debts owed to ACA from other entities owned by Michael Dozier.

61. ACA knew or should have known that by restricting Dozier's use of the funds it received from ACA, Dozier would not and did not have the ability to pay for the Chattel Paper it was "purchasing" from Debtor.

62. On or about October 29, 2013, Dozier stopped paying the Debtor for the Chattel Paper. However, the Debtor continued to transfer its Chattel Paper to Dozier.

IV. Receivables Purchase Agreements Between ACA and Dozier Financial

63. In December of 2013, ACA was significantly undersecured related to its Loan Agreements with Dozier; Dozier was insolvent within the meaning of 11 U.S.C. §101 (32) and was potentially facing losses of more than $6,000,000.

64. Upon information and belief, ACA knew or should have known that Dozier would not be able to repay its obligations to ACA, and that Dozier was unable to pay for the Chattel Paper it was acquiring from Debtor.

65. At this time, ACA also knew that Dozier had not paid Debtor for the Chattel Paper in the possession of Dozier because ACA had restricted or otherwise stopped its traditional method of advancing Dozier funds.

66. In order to protect ACA's financial interest, and to the detriment of creditors of Debtor, on December 6, 2013, ACA and Dozier entered into a Receivables Purchase Agreement

(the December 6, 2013 Purchase Agreement). Attached hereto as Exhibit 2 is a copy of the December 6, 2013 Purchase Agreement.

67. Pursuant to the December 6, 2013 Purchase Agreement, Dozier transferred title to the Chattel Paper to ACA, including Chattel Paper that came from Debtor and for which Dozier had not paid Debtor.

68. The purchase price was applied to the outstanding balance due and owing from Dozier to ACA that had accumulated under the April 19, 2013 Loan Agreement and for which the Debtor and Michael Dozier individually were allegedly guarantors.

69. Debtor continued to sell cars to the general public and continued to assign the Chattel Paper for these cars to Dozier.

70. Dozier did not pay the Debtor for the assignment of the Chattel Paper after October 29, 2013.

71. Thereafter, Debtor funded its business by not paying any of its other creditors.

VI. Debtor's Business Operations Shut Down

72. On or about April 19, 2014, Debtor was shut down, and its automobile dealer's license was surrendered to the South Carolina Department of Motor Vehicles for non-payment of sales taxes and for not paying off the liens on vehicles it was selling to the public.

73. Immediately thereafter, on or about April 21, 2014, ACA came onto the Debtor's premises and seized the vehicles on its premises.

VII. May 8, 2014 Purchase Agreement

74. On May 8, 2014, ACA and Dozier entered into the First Amendment to the December 6, 2013 Purchase Agreement (the "May 8, 2014 Purchase Agreement"). Attached hereto as Exhibit 3 is the May 8, 2014 Purchase Agreement.

75. In the May 8, 2014 Purchase Agreement, ACA acquired from Dozier all Chattel Paper that came into existence from December 6, 2013 to May 8, 2014.

76. ACA did not actually pay Dozier anything for Chattel Paper. Instead, the amount due Dozier under the purchase price was used to satisfy the certain purported obligations of Dozier to ACA.

77. As with the December 6, 2013 Purchase Agreement, ACA received a security interest in the Chattel Paper being purchased on May 8, 2014. See Exhibit 3, page 3.

78. The total value of Chattel Paper transferred to ACA by Dozier (which represented Chattel Paper of Debtor for which Dozier had not paid) under the May 8, 2014 Purchase Agreement was in excess of $3,700,000 of the total of $4,241,892.05 so transferred. See Exhibit 3, page 2.

79. Dozier did not receive any funds from this transaction but was released from all of its obligations to ACA. No money was paid to Debtor.

80. Simultaneously with the execution of the May 8, 2014 Purchase Agreement, ACA and Michael Dozier entered into a "settlement agreement" (the "May 8, 2014 Settlement Agreement").

81. Pursuant to the terms of the Settlement Agreement, in exchange for Michael Dozier causing Dozier to execute the May 8, 2014 agreement, a) Michael Dozier was released

from all further liability under his personal guarantee, b) the Backup Collateral was released from the liens of ACA, and c) ACA agreed to pay $40,000 of indebtedness owed by Dozier and/or Michael Dozier for employee withholding taxes under section 941 of the Internal Revenue Code directly to the taxing authority. The May 8, 2014 Settlement Agreement did not release Debtor as a guarantor.

82. The result was that ACA seized everything Dozier owned, and other creditors received nothing.

FOR A FIRST CAUSE OF ACTION AGAINST ACA
(Avoidance Under 11 U.S.C. § 548)

83. Plaintiff incorporates the prior allegations contained in this pleading as if stated verbatim.

84. Debtor transferred its Chattel Paper to Dozier without receiving any value or for less than reasonably equivalent value.

85. Debtor became insolvent as a result of transferring its Chattel Paper to Dozier for no value or less than reasonably equivalent value, or was insolvent at the time of such transfer.

86. Debtor, as a result of transferring its Chattel Paper to Dozier for no value or less than reasonably equivalent value, was left with unreasonably small capital to engage in the business of “buy here, pay here” car sales and financing.

87. Debtor, as a result of transferring its Chattel Paper to Dozier without receiving any value or less than reasonably equivalent value for the transfer, incurred debts and obligations that were beyond the ability of Debtor to pay.

88. All of the transfers of Chattel Paper from Debtor to Dozier for which Debtor received no value or less than reasonably equivalent value occurred within two (2) years of the Petition Date.

89. Upon information and belief, the value of the Chattel Paper transferred from Debtor to Dozier for no value or less than reasonably equivalent value is at least $3,715,249.

90. Plaintiff is informed and believes that such transfers are fraudulent within the meaning of 11 U.S.C. § 548, and are avoidable.

91. Plaintiff prays that the Court declare all transfers of Chattel Paper from Debtor to Dozier within two (2) years of the Petition Date for which Debtor received no value or less than reasonably equivalent value to be fraudulent and avoidable by the Chapter 7 Trustee under § 548(a).

FOR A SECOND CAUSE OF ACTION AGAINST ACA
(Recovery Under 11 U.S.C. § 550)

92. Plaintiff incorporates the prior allegations contained in this pleading as if stated verbatim.

93. Dozier transferred the Chattel Paper it received from Debtor to ACA, and those transfers, as described herein, were fraudulent transfers under § 548(a).

94. Pursuant to 11 U.S.C. § 550, Plaintiff seeks to recover, for the benefit of the bankruptcy estate, the value of the Chattel Paper transferred from Debtor to Dozier, and then to ACA, from ACA (at the time of transfer).

FOR A THIRD CAUSE OF ACTION AGAINST ACA
(Avoidance Under 11 U.S.C. § 547)

95. Plaintiff incorporates the prior allegations contained in this pleading as if stated verbatim.

96. ACA was a creditor of Debtor because Debtor allegedly was a corporate guarantor of the April 19, 2013 Loan Agreement.

97. Debtor indirectly transferred Chattel Paper to ACA via Dozier and the December 6, 2013, Purchase Agreement and the May 8, 2014 Purchase Agreement.

98. Over $3,700,000 worth of Chattel Paper from Debtor was transferred to ACA pursuant to the two Purchase Agreements; these were transfers to or for the benefit of ACA.

99. The transfer of Chattel Paper to ACA pursuant to the two Purchase Agreements was made for or an account of the antecedent debt owed by Dozier to ACA before such transfer was made, and Debtor was allegedly a guarantor of that debt.

100. The transfer of the Chattel Paper from Debtor to ACA pursuant to both the December 13, 2013 Purchase Agreement and the May 8, 2014 Purchase Agreement were made while Debtor was insolvent.

101. The transfer of Chattel Paper to ACA pursuant to the May 8, 2014 Purchase Agreement was made within 90 days before the date of the filing of the petition for bankruptcy.

102. On April 19, 2013, Debtor signed a Power of Attorney giving ACA authority to act on behalf of and for Debtor. Attached hereto as Exhibit 4 is a copy of the Power of Attorney.

103. Under the Power of Attorney, ACA had the authority to, among other things, defend any suit brought against Debtor, file or prosecute a claim to collect any money due to Debtor, sell or make an agreement as it relates to Debtor’s property, and pay or discharge taxes or liens placed against Debtor’s property.

104. In addition, the April 19, 2013 Loan Agreement gives ACA control over the alleged Guarantors, including Debtor, including but not limited to requiring that none of the Guarantors will permit a change in control with respect to a Guarantor without the prior written consent of ACA and that none of the Guarantors will vote for any amendment to its formation documents without the written consent of ACA.

105. The Power of Attorney and other documents made ACA an insider, as defined by 11 U.S.C. § 101(31)(B), of Debtor by at least April 19, 2013.

106. The transfer of Chattel Paper to ACA pursuant to the December 6, 2013 Purchase Agreement was made between 90 days and one year before the date of the filing of the petition for bankruptcy.

107. The transfer of Chattel Paper originating with Debtor to ACA pursuant to the two Purchase Agreements enabled ACA to receive more than ACA would have received if (a) the Debtor was a case under Chapter 7 of the Bankruptcy Code at the time of the transfer, (b) the transfer had not been made, and (c) ACA received payment of such debt to the extent provided for by the provisions of the Bankruptcy Code.

108. Pursuant to 11 U.S.C. § 547, Plaintiff seeks to avoid the transfers of Chattel Paper transferred from Debtor to Dozier and then from Dozier to ACA.

FOR A FOURTH CAUSE OF ACTION AGAINST ACA
(Recovery Under 11 U.S.C. § 550)

109. Plaintiff incorporates the prior allegations contained in this pleading as if stated verbatim.

110. Dozier transferred the Chattel Paper it received from Debtor to ACA, and those transfers, as described herein, should be avoided under § 547.

111. Pursuant to 11 U.S.C. § 550, Plaintiff seeks to recover, for the benefit of the bankruptcy estate, the value of the Chattel Paper transferred from Debtor to Dozier and then from Dozier to ACA (at the time of transfer).

FOR A FIFTH CAUSE OF ACTION
(CONSTRUCTIVE TRUST)

112. Plaintiff incorporates the prior allegations contained in this pleading as if stated verbatim.

113. Dozier obtained Chattel Paper from Debtor that did not equitably belong to Dozier since Dozier stopped paying consideration for Chattel Paper on or about October 29, 2013.

114. Dozier acquired Chattel Paper through bad faith, abuse of confidence and/or through violation of a fiduciary duty by Michael Dozier, who controlled both Dozier and Debtor.

115. Michael Dozier made decisions and took actions that solely benefited Dozier at the expense and detriment of Debtor.

116. The Chattel Paper should never have been transferred to Dozier for no consideration and Dozier should not in good conscience be allowed to keep the Chattel Paper.

117. When Dozier came into possession of the Chattel Paper, a constructive trust arose over the Chattel Paper for the benefit of Debtor.

118. If property subject to a constructive trust can be traced into the hands of a third party, a constructive trust may be imposed on the property in the hands of the third party.

119. Dozier transferred the Chattel Paper subject to a constructive trust from Debtor to ACA.

120. ACA was not a bona fide purchaser for value of the Chattel Paper.

121. The constructive trust over the Chattel Paper remained in place when the Chattel Paper was transferred to ACA and ACA held and still holds the Chattel Paper in a constructive trust for the benefit of Debtor.

122. To the extent ACA converted the Chattel Paper into other assets, including liquid funds, and/or used the proceeds of the Chattel Paper to purchase other assets, a constructive trust arose over the liquid funds and/or asset purchased such that the liquid funds and/or purchased assets are now held in a constructive trust for the benefit of the bankruptcy estate.

FOR A SIXTH CAUSE OF ACTION (CONVERSION)

123. Plaintiff incorporates the prior allegations contained in this pleading as if stated verbatim.

124. On or about April 19, 2014, Debtor's business was shut down and its auto dealer's license was returned to the SC Department of Motor Vehicles.

125. After Debtor's business was shut down, employees, agents, and representatives of ACA came to Debtor's business location and took possession of vehicles owned by Debtor that were on Debtor's premises.

126. ACA took possession of vehicles that had a total value in excess between $454,500.00 and $909,000.00 Dollars.

127. Debtor had title and/or a right to possess all of the vehicles taken by ACA.

128. ACA converted Debtor's vehicles to its own use.

129. ACA's taking and conversion of Debtor's vehicles was without Debtor's permission.

130. ACA's conversion of Debtor's vehicles was a willful and intentional taking that was accomplished recklessly and with conscious indifference to Debtor's rights.

131. Debtor has been damaged by ACA's conversion, and Plaintiff seeks all available damages under the law, including but not limited to actual and punitive damages.

FOR A SEVENTH CAUSE OF ACTION
(FRAUDULENT CONVEYANCE STATUTE/S.C. CODE § 27-23-10)

132. Plaintiff incorporates the prior allegations contained in this pleading as if stated verbatim.

133. Michael Dozier controlled both Dozier and Debtor.

134. Michael Dozier made decisions and took actions that solely benefitted Dozier at the expense and detriment of Debtor and Debtor's creditors.

135. Debtor voluntarily (without consideration) transferred Chattel Paper to Dozier.

136. At the time of the voluntary transfers of Chattel Paper, Debtor owed money to creditors.

137. Debtor failed to retain sufficient property to pay its indebtedness to its creditors.

138. The transfer of Chattel Paper from Dozier to ACA was not a transfer made upon or for good consideration and bona fide to any body corporate.

139. Under S.C. Code Ann. § 27-23-10, the transfers of Chattel Paper from Debtor to Dozier and from Dozier to ACA should be set aside and the value of the Chattel Paper should be returned to Plaintiff, as Trustee of the Bankruptcy Estate.

FOR A EIGHT CAUSE OF ACTION
(S.C. UNFAIR TRADE PRACTICE ACT)

140. Plaintiff incorporates the prior allegations contained in this pleading as if stated verbatim.

141. Dozier and/or ACA engaged in unfair or deceptive acts in the conduct of trade or commerce.

142. The unfair or deceptive acts include but are not limited to entering into the two Receivables Purchase Agreements when they knew or should have known that the purpose of the transfers was to defraud creditors.

143. There is the potential for repetition of the unfair and deceptive acts by ACA and by Dozier that affect the public interest.

144. The unfair and deceptive acts by ACA and by Dozier affected the Bankruptcy Estate, Debtor, and the general public.

145. The Bankruptcy Estate suffered ascertainable injuries and damages, including but not limited to the loss of over $3,700,000 that Dozier owed to Debtor.

146. The violations committed by ACA were willful and knowing, and therefore support the imposition of treble damages under S.C. Code § 39-5-140.

147. In addition to actual damages ($3,700,000.00) and treble damages ($11,100,000.00), Plaintiff also requests its reasonable attorney fees and costs under S.C. Code Ann. § 39-5-140.

FOR A NINTH CAUSE OF ACTION
(CREDITOR IN CONTROL/CREDITOR INTERFERENCE)

148. Plaintiff incorporates the prior allegations contained in this pleading as if stated verbatim.

149. Under the terms of the various loan agreements between ACA and Dozier and for which Debtor was allegedly a guarantor, ACA had control over Debtor. For example, the April 19, 2013 Loan Agreement gives ACA control over the alleged Guarantors, including Debtor.

150. Further, ACA held a Power of Attorney signed by Debtor on April 19, 2013, which is attached hereto as Exhibit 4.

151. ACA abused and/or improperly exercised control and committed acts of interference with property and/or property rights of Debtor, by among other things, seizing vehicles from Debtor's sales lot on or about April 21, 2014 and by purchasing Chattel Paper that originated from Debtor from Dozier even though Dozier had not paid any consideration to Debtor and/or paid inadequate consideration to Debtor.

152. ACA's acts of interference were willful and intentional and operated to the detriment of Debtor.

153. ACA's acts of interference proximately caused damage to Plaintiff, including but not limited to the loss of the value of the vehicles seized and the loss of the value of the Chattel Paper.

154. Debtor has been damaged by ACA's abuses and exercise of control over the Debtor, and Plaintiff seeks actual and punitive damages as a result thereof.

FOR A TENTH CAUSE OF ACTION
(CREDITOR IN CONTROL/INSTRUMENTALITY DOCTRINE)

155. Plaintiff incorporates the prior allegations contained in this pleading as if stated verbatim.

156. Under the terms of the various loan agreements between ACA and Dozier, ACA had control over Dozier. For example, under the April 19, 2013, Loan Agreement, Dozier, as the borrower, could not, among other things, incur any indebtedness without the consent of ACA as lender, could not be a party to a merger without the consent of ACA, could not declare or pay any dividend without the consent of ACA, could not issue any shares, membership interests without the consent of ACA, and could not change its name without the consent of ACA.

157. ACA also required Dozier to sign a Power of Attorney giving ACA authority to act on behalf of and for Dozier and ACA used the Power of Attorney. Attached hereto as Exhibit 5 is a copy of the Power of Attorney signed by Dozier.

158. ACA controlled the affairs of Dozier so that Dozier became a mere instrumentality of ACA.

159. ACA exercised control over Dozier to benefit ACA to the detriment of the creditors of Dozier. For example, ACA, as control creditor, made certain that its debts were paid while other creditors, including Debtor, were not paid.

160. Debtor was and is a creditor of Dozier and suffered injuries and damages as a result of ACA's actions and exercise of control.

161. Under the circumstances of this case, ACA and Dozier were and are alter egos so that ACA is responsible for all debts and obligations of Dozier attributable to that control.

162. Debtor has been damaged by ACA's abuses and exercise of control over Dozier, and Plaintiff seeks actual and punitive damages as a result thereof, including but not limited to full payment of all debts owed by Dozier to Debtor.

WHEREFORE, the Trustee requests a jury trial and prays for judgment against Defendants and for:

a. An order setting aside the transfers of Chattel Paper and ordering ACA and/or Spartan to pay Plaintiff, as Trustee of Debtor's Bankruptcy Estate, the full value of the Chattel Paper at the time of the transfer plus interest;

b. An order finding that a constructive trust arose over all Chattel Paper transferred from Debtor to Dozier from the moment of transfer and that the constructive trust continued as the Chattel Paper was transferred from Dozier to ACA and/or Spartan;

c. An order finding to the extent ACA and/or Spartan have converted the Chattel Paper to liquid funds or other assets, then the liquid funds or assets do not equitably belong to ACA and/or Spartan and, under these circumstances, ACA and/or Spartan holds such liquid funds or assets in constructive trust for Plaintiff;

d. An order requiring ACA and/or Spartan to return all liquid funds or assets held in constructive trust to Plaintiff;

e. An order awarding Plaintiff damages from ACA and/or Spartan on all causes of action raised, including but not limited to actual damages, punitive damages, and treble damages;

f. An order requiring ACA and/or Spartan to pay for the costs and attorney fees of Plaintiff for bringing this Action; and

g. Such other and further relief as the court may deem just and proper.

TWENGE + TWOMBLEY LAW FIRM

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